

Notice of Allowability

Application No.

09/314,698

Examiner

Juliet C. Switzer

Applicant(s)

PERRIN ET AL.

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 2/27/03 and interview held 5/14/03.
2. ☒ The allowed claim(s) is/are 58-62.
3. ☒ The drawings filed on 27 February 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>0503</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ingrid Beattie on 5/14/03.

The claims have been amended as follows:

In claim 58, in the second line of section (b) the phrase ---complex subtraction--- was inserted between the words "initial" and "probe."

In claim 58, in the last line of the claim (section (f)), the phrase ---previously-uncharacterized--- was inserted between the words "population" and "of."

In claim 61, the phrase "Unigene set" was deleted and the language ---set of genes wherein each member of the set is represented once--- was inserted therefore.

The specification has been amended as follows:

In the specification, page 4, line 24, the word "unigene" was replaced with the phrase ---unique gene---.

In the specification, page 4, line 29, the word "UniGene" was replaced with the phrase ---Unique Gene---.

In the specification, page 5, line 2, the word "UniGene" was replaced with the phrase ---
Unique Gene ---.

In the specification, page 6, line 4, the word "unigene" was replaced with the phrase ---
unique gene---

In the specification, page 6, line 19, the word "Unigene" was replaced with the phrase ---
Unique gene---

In the specification, page 6, line 20, the word "unigene" was replaced with the phrase ---
unique gene---

In the specification, page 9, line 29, the word "Unigene" was replaced with the phrase ---
Uniqe gene---

In the specification, page 11, line 1, the word "unigene" was replaced with the phrase ---
unique gene---

In the specification, page 11, line 7, the word "unigene" was replaced with the phrase ---
unique gene---

In the specification, page 12, line 5, the word "unigene" was replaced with the phrase ---
unique gene---

In the specification, page 12, line 14, the word "UNIGENE" was replaced with the phrase
---UNIQUE GENE---

In the specification, page 12, line 16, the word "UniGene" was replaced with the phrase -
-- Unique Gene---

In the specification, page 12, line 27, the word "UniGene" was replaced with the phrase -
-- Unique Gene---

In the specification, page 13, line 23, the word "UniGene" was replaced with the phrase -
-- Unique Gene---.

In the specification, page 14, line 8, the word "unigene" was replaced with the phrase ---
unique gene---.

In the specification, page 20, line 17, the word "unigene" was replaced with the phrase ---
unique gene---.

In the specification, page 21, line 7, the word "Unigene" was replaced with the phrase ---
Unique gene---.

In the specification, page 21, line 7, the word "unigene" was replaced with the phrase ---
unique gene---.

In the specification, page 21, line 13, the word "unigene" was replaced with the phrase ---
unique gene---.

2. The following is an examiner's statement of reasons for allowance:

The methods taught by Kayne *et al.* in view of Gress *et al.* are the closest prior art (see rejections mailed 8/27/02). The instant claims are free of the prior art because the prior art does not teach or suggest a method in which the newly identified sequences is added to the initial pool to generate a second complex subtraction probe pool. Absent teaching or suggestion of such a step, the instant claims are free of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

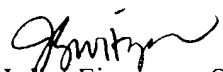
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juliet Einsmann Switzer whose telephone number is (703) 306-5824. The examiner can normally be reached on Monday through Friday, from 9:00 AM until 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones can be reached on (703) 308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 and (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.



JEFFREY FREDMAN
PRIMARY EXAMINER



Juliet Einsmann Switzer
Examiner
Art Unit 1634

May 14, 2003